

# **EXHIBIT E**

# **[PUBLIC VERSION]**

CONFIDENTIAL

Page 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

# - C O N F I D E N T I A L -

## Deposition of

TARA HUMSTON

November 3, 2023

8:04 a.m.

Reported by: Bonnie L. Russo

Job No. 6153223

CONFIDENTIAL

Page 9

1 P R O C E E D I N G S

2 (8:04 a.m.)

3

4 TARA HUMSTON,

5 being first duly sworn, to tell the truth, the  
6 whole truth and nothing but the truth,  
7 testified as follows:

8 EXAMINATION BY COUNSEL FOR PLAINTIFF

9 BY MR. SCARBOROUGH:

10 Q. Ms. Humston, good morning. My name  
11 is Ryan Scarborough. I represent Custodia  
12 Bank.

13 How long have you worked at the  
14 Kansas City Fed?

15 A. 25 years.

16 Q. And have you ever worked at the  
17 board of governors?

18 A. No.

19 Q. If I refer to the board, do you  
20 understand that to refer to the board of  
21 governors?

22 A. Yes.

CONFIDENTIAL

Page 12

1 A. That is correct.

2 Q. And custodial services is just a  
3 fancy term for like a safe deposit box, right?

4 A. I wouldn't necessarily use that  
5 definition. I'm not sure if that's how it's  
6 defined.

7 Q. Is a safe deposit box one form of a  
8 custodial service?

9 A. Yes.

10 Q. And there are other forms as well,  
11 correct?

12 A. That is correct.

13 Q. State-chartered banks are permitted  
14 to do anything that national banks can do,  
15 right?

16 MR. MICHAELSON: Objection. Form.

17 THE WITNESS: Yes. I believe most  
18 -- yes, banks are permitted to do anything a  
19 national bank is permitted to do.

20 BY MR. SCARBOROUGH:

21 Q. And their abilities to provide  
22 banking services are coextensive of what

CONFIDENTIAL

Page 16

1                   A.     I would say it's been a novel  
2                   activity that's come into banking.

3                   Q.     And there are banks in the Federal  
4                   -- excuse me.

5                                   There are banks in the Federal  
6                   Reserve system that provide custodial services  
7                   for digital assets, right?

8                   A.     Yes, I believe that's correct.

9                   Q.     And examples of banks are -- include  
10                   -- strike that.

11                                   Examples of banks that provide  
12                   custodial services for digital assets include  
13                   Bank of New York Mellon, right?

14                   MR. MICHAELSON: I just instruct you  
15                   not to answer that question to the extent it  
16                   would reveal confidential supervisory  
17                   information confidential to the Fed. If you  
18                   know, you can answer this question based on  
19                   publicly available information. You can  
20                   answer.

21                   THE WITNESS: I'm not sure if what I  
22                   know is public or not in talking to my New York

CONFIDENTIAL

Page 18

1 Q. Now, there is nothing illegal about  
2 a bank providing custodial services for  
3 cryptocurrency assets, right?

4 A. At this time I'm not aware of it  
5 being illegal.

6 Q. Would you agree it's a legally  
7 permissible activity?

8 MR. MICHAELSON: Objection. Form.

9 THE WITNESS: Legally permissible to  
10 custody those assets.

11 BY MR. SCARBOROUGH:

12 Q. Are you aware that the OCC permits  
13 national banks to provide custodial services  
14 for crypto assets?

15 A. I believe that's their regulation.

16 Q. Do you know that the OCC issued an  
17 interpretive letter in July 2020 opining that  
18 providing custodial services for crypto assets  
19 is a legally permissible activity?

20 A. Yes, I know the OCC issued that  
21 letter.

22 Q. And that's around the same time that

CONFIDENTIAL

Page 24

1 MR. MICHAELSON: Objection. Form.

2 THE WITNESS: No, I was not working  
3 with them directly.

4 BY MR. SCARBOROUGH:

5 Q. Were there people at the Kansas City  
6 Fed who worked directly with representatives of  
7 Wyoming in connection with the SPDI  
8 legislation?

9 A. I wouldn't consider it working with  
10 them, but I do know some from my team had  
11 reviewed drafts and had discussions.

12 Q. Would it be fair to characterize it  
13 as consultation?

14 A. I can't speak -- I wasn't part of  
15 those conversations, but they sent us drafts to  
16 review.

17 Q. Who from your staff had -- had  
18 discussions with representatives from Wyoming?

19 A. To my knowledge, it was primarily  
20 Jackie Nugent.

21 Q. Did Esther George?

22 A. Esther did have a conversation or --

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Page 25

1 I can't speak to how many. I know she had some  
2 contact at some point.

3 Q. And did her contacts include  
4 speaking with the commissioner of the Wyoming  
5 Division of Banking, Albert Forkner?

6 A. I do recall her saying she had  
7 talked with Albert Forkner.

8 Q. And did you have any conversations  
9 with Wyoming representatives?

10 A. At the time Albert would have been  
11 the commissioner of Wyoming, and so in  
12 supervising institutions in Wyoming, I would  
13 have had periodic contact with Albert. I don't  
14 recall a specific meeting just to discuss the  
15 SPDI charter.

16 Q. You mentioned that you had regular  
17 conversations with Wyoming more generally in  
18 connection with their supervision -- was that  
19 in connection with their supervision of  
20 entities in Wyoming?

21 A. Yes. We work with the state  
22 commissioners on the institutions that we

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Page 26

1                   jointly supervised through the dual banking  
2                   system.

3                   Q.        Okay. Do you have any criticism of  
4                   the Wyoming Division of Banking?

5                   A.        No specific -- it's not a criticism,  
6                   but we often help some of our state  
7                   counterparts because they lack the resources to  
8                   be able to supervise some of the entities in  
9                   their state.

10                  Q.        Did Wyoming have experience  
11                  personnel performing supervisory roles?

12                  A.        For traditional banking charters,  
13                  they had staff that were -- had the skill set  
14                  needed to supervise traditional bank charters.

15                  Q.        They were qualified?

16                  MR. MICHAELSON: Objection. Form.

17                  THE WITNESS: Qualified for what?

18                  BY MR. SCARBOROUGH:

19                  Q.        For supervising traditional bank  
20                  charters, as you said?

21                  A.        They had individuals I think our  
22                  team would say were qualified.

CONFIDENTIAL

Page 27

1 Q. And they had individuals who were  
2 also competent, correct?

3 A. Competent in...?

4 Q. Supervising traditional bank  
5 charters.

6 A. I think if we say they were skilled,  
7 they would be competent in supervising a  
8 traditional bank charter.

9 Q. And they had individuals who were  
10 well trained in supervising traditional bank  
11 charters, right?

12 A. Wyoming Department of Banking had  
13 training available to their examiners. Some of  
14 the states rely on the Federal Reserve's  
15 training, so I don't know to what extent their  
16 state relied on ours, but many of our states  
17 are not able to fully utilize their own  
18 training programs.

19 Q. But your experience with Wyoming was  
20 that they -- the individuals you dealt with  
21 were well trained, correct?

22 A. I don't deal with many of their

CONFIDENTIAL

Page 28

1                   examiners directly, so I don't have personal  
2                   representation on the training level of their  
3                   staff. But more generally I think my team  
4                   found they have examiners that would be skilled  
5                   in their job.

6                   Q.        Now, in spending -- in developing  
7                   the SPDI legislation, Wyoming had several years  
8                   of experience and focus on learning and  
9                   developing a cryptocurrency supervisory regime;  
10                  is that fair?

11                  A.        I -- I don't know that they trained  
12                  their exam staff on that supervisory regime.  
13                  My understanding is they worked with an  
14                  external party to develop a supervisory regime,  
15                  and I heard from Commissioner Forkner at the  
16                  time that they were working with them to  
17                  develop the supervisory program. But to the  
18                  extent their team was ever trained on that  
19                  program, I don't know how successful that was.

20                  Q.        Would it be fair to say that at the  
21                  time you -- the Kansas City Fed received the  
22                  first request for a master account from a SPDI

CONFIDENTIAL

Page 38

1 terminology here. You say legal to apply for a  
2 master account.

3 Do you understand that to mean the  
4 same thing as being legally eligible for a  
5 master account?

6 A. To be legally eligible to apply for  
7 a master account.

8 Q. Okay. And so that determination as  
9 to whether Custodia was legally eligible to  
10 apply for a master account was made by the  
11 board of governors, wasn't it?

12 A. I don't recall.

13 Q. Okay. Do you have any reason -- any  
14 basis to dispute that that determination was  
15 made by the board of governors?

16 A. I can't say either way.

17 Q. Would you agree that Custodia's  
18 request for a master account was one of several  
19 applications that presented the policy question  
20 about whether a novel chartered institution  
21 should get access to the payment system?

22 MR. MICHAELSON: Objection. Form.

CONFIDENTIAL

Page 39

1                   THE WITNESS: Custodia was one of  
2                   other entities that were bringing this question  
3                   to light.

4                   BY MR. SCARBOROUGH:

5                   Q.        Was Custodia the first  
6                   SPDI-chartered institution to request a master  
7                   account?

8                   A.        Yes, I believe they were the first.

9                   Q.        Let me hand you a document which  
10                  we'll mark as Exhibit 147.

11                  MR. SCARBOROUGH: Oh, let's not mark  
12                  this one as 147.

13                  THE COURT REPORTER: Let's not?

14                  MR. SCARBOROUGH: Yeah. I  
15                  apologize. Can we take the sticker off?

16                  (Discussion off the stenographic  
17                  record.)

18                  BY MR. SCARBOROUGH:

19                  Q.        So I'm going to hand you a  
20                  document -- sorry. Yeah. I'm going to hand  
21                  you a document that has been marked as Exhibit  
22                  10. I will try to catch that next time.

CONFIDENTIAL

Page 191

1                   A.        True.

2                   Q.        Okay.  How long does it typically  
3                   take for a master account to be --

4                   A.        For a traditional --

5                   Q.        -- decided?

6                   A.        -- commercial bank, it can be done  
7                   in a week's time or less.

8                   Q.        Okay.  In terms of the time line  
9                   that you referenced here about the time line is  
10                   probably, technically accurate about -- is that  
11                   referencing the fact that the request just sat  
12                   at the Fed before Custodia was hit out of left  
13                   field with the proposed account access  
14                   guidelines?

15                   MR. MICHAELSON:  Objection.  Form.

16                   THE WITNESS:  No.  I mean, in the  
17                   e-mail, we are not seeing an attached picture.  
18                   I may have been referring to that.  I don't --  
19                   I don't recall what that looked like.

20                   But, I mean, I would be speculating  
21                   to say if I am referring to what was in the  
22                   picture attached --

CONFIDENTIAL

Page 221

1 for what? Supervisory --

2 A. Supervision and regulation.

3 Q. Oh, supervision and regulation.

4 Okay. And an SR letter is different  
5 than an S letter, correct?

6 A. Yes.

7 Q. Do you know what the S for S letter  
8 stands for?

9 A. I do not.

10 Q. Okay. And so with SR letters, you  
11 see those frequently in your role at the Kansas  
12 City Fed, correct?

13 A. Yes, I would say I see those on a  
14 regular cadence.

15 Q. Okay. With regard to an S letter,  
16 the only time in your experience that you have  
17 seen one is the S letter that was issued in  
18 connection with implementing or  
19 operationalizing the account access guidelines;  
20 is that fair?

21 A. To my recollection, that's the only  
22 one.

CONFIDENTIAL

Page 331

1 to identify which public officials were being  
2 referenced in your letter concerning the  
3 responsible development of digital assets and  
4 their integration into the financial system?

5 A. Yeah. As I said in the deposition I  
6 think three times here just now, I do not know  
7 who that is referring to in these public  
8 officials.

9 Q. Okay. And turning to the second  
10 page of the letter, in the --

11 A. In the draft or the letter?

12 Q. Oh, I'm sorry. Exhibit 158, the  
13 final letter.

14 In the penultimate paragraph, you  
15 start out: "We understand the urgency with  
16 which you will need to make business decisions  
17 for Custodia," and then you say: "I hope that  
18 you understand the precedent-setting decision  
19 involving nontraditional charters and new  
20 activities is one that the Federal Reserve Bank  
21 of Kansas City must weigh carefully."

22 Was that your view at the time, that

CONFIDENTIAL

Page 332

1 the decision on whether to grant Custodia a  
2 master account was a precedent-setting decision  
3 for nontraditional charters?

4 A. Yes. From very early on I think  
5 since the formation of the SPDI charters, we  
6 had felt that -- that nontraditional nature and  
7 the word of being "nontraditional" or "novel,"  
8 that would be precedent setting, because in my  
9 mind nontraditional and novel means it's one of  
10 the first times you're seen in an early stage.  
11 So it would be the first of its kind.

12 And so any other federal district  
13 getting a request or having a state form, a  
14 state charter, this would be influential to  
15 another reserve bank's decision.

16 Q. Okay. And this letter would have  
17 gone out to the Custodia on April 15, 2022,  
18 right?

19 A. That would be my understanding the  
20 way it's stated.

21 MR. SCARBOROUGH: Okay. I'm going  
22 to hand you what we'll mark as Exhibit 160.

CONFIDENTIAL

Page 360

1                   Q.     What's your understanding of who  
2                   would have had input on the recommendation memo  
3                   to Esther George?

4                   A.     That we were writing to Esther, it  
5                   would have -- if -- I don't know what Chris,  
6                   his involvement was in the memo itself, but  
7                   Christi May-Oder and Judith Hazen, myself, and  
8                   we would have asked for our legal colleagues to  
9                   ensure that we -- since we are under this  
10                  lawsuit, they would be reviewing it as well  
11                  from a legal basis.

12                  Q.     Okay. So Christi May-Oder, Judith  
13                  Hazen, your legal colleagues, and yourself  
14                  would have had input on it. You're not aware  
15                  of whether Chris Gaul-Pearson did.

16                  Anybody else that you're aware of  
17                  having input on the recommendation memo to  
18                  Esther George?

19                  A.     I mean, I don't know if Chris  
20                  Gaul-Pearson -- I mean, he reports to Christi,  
21                  so she may have assigned it to him or someone  
22                  on her team to begin the beginnings of a memo.

CONFIDENTIAL

Page 361

1           But, no, I'm not aware of others.

2           Q.       Do you know whether anybody from the  
3           board of governors edited the memo before it  
4           was provided to Esther George?

5           A.       I would not be aware of that.

6           Q.       Okay. Would it be appropriate for  
7           anybody at the board of governors to edit the  
8           memo to Esther George?

9           A.       If there was a component where we  
10          were speaking on behalf of something  
11          represented by the board, our team might  
12          consult with the board on a particular part, if  
13          we are representing something that falls with  
14          the board of governors's realm.

15           But in this case, I don't recall if  
16          that was necessary.

17           Q.       What parts of the recommendation  
18          memo relating to Custodia master account  
19          request would have been appropriate for the  
20          board of governors to comment or edit on or  
21          edit?

22           A.       I would only think of the legal

CONFIDENTIAL

Page 403

1 before that could be communicated to Custodia?

2 A. Could you say that once again --

3 Q. Sure.

4 A. -- is that my understanding or are  
5 you saying --

6 Q. Yes, I am asking about your  
7 understanding.

8 A. It was my understanding we needed to  
9 wait for Matt Eichner to respond to what we had  
10 sent him.

11 Q. Was it also your understanding that  
12 this response from Matt Eichner needed to occur  
13 before the board voted on the membership  
14 application?

15 A. No, that was not my understanding.

16 Q. Okay. Was it your understanding  
17 that the Kansas City Fed was going to wait to  
18 issue its denial of Custodia's master account  
19 request until the board of governors informed  
20 Custodia that its membership application was  
21 denied?

22 A. That was a decision we were weighing

CONFIDENTIAL

Page 404

1           locally in that did it make sense for us to  
2           hold our denial letter in case the board went a  
3           direction we were not expecting because we had  
4           recommended denial. We did not -- I did not  
5           know with certainty if any of the governors had  
6           different views, and it was -- their vote would  
7           come out differently.

8                   And so of the vote came out  
9                   differently, it might cause us to rethink our  
10                  analysis because some of the factors that we  
11                  had included -- maybe the fact pattern would  
12                  change if they were a member institution.

13                  Q.     So the next morning the board of  
14                  governors voted 7-0 to deny membership to  
15                  Custodia; is that correct?

16                  A.     Yes.

17                  Q.     And they issued a denial letter that  
18                  morning, right?

19                  A.     I don't know when it was in the day.  
20                  I believe it was morning.

21                  Q.     Okay. Is it your understanding that  
22                  the rollout of the denial of the membership and